

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X Civil Docket No.: 1:19-cv-5761
KISHA COSTON,

Plaintiff,

NOTICE OF REMOVAL

-against-

REGAL CINEMAS, INC.,

Defendant.

-----X

To: United States District Court, Eastern District of New York

PLEASE TAKE NOTICE that defendant, Regal Cinemas, Inc., Inc., by its attorneys Marshall Dennehey Warner Coleman & Goggin, remove this case from the Supreme Court of the State of New York, County of Kings, and in support of removal state, under penalty of perjury:

1. A civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed by the defendant to the district court of the United States for the district and division embracing the place where such action is pending. 28 U.S.C. §1441(a).

2. 28 U.S.C. §446 requires that a defendant who wants to remove a civil action to file a notice of removal together with copies of all process, pleadings, and orders served upon it.

RELEVANT PROCEDURAL HISTORY

3. A civil action was commenced by the plaintiff, Kisha Coston against Regal Cinemas, Inc. in the Supreme Court of the State of New York, County of Kings, Index No.: 503977/2019. Complaint (**Exhibit "A"**).

4. The Complaint was filed with the Supreme Court, Kings County, on or about February 22, 2019. Complaint (**Exhibit "A"**). On June 6, 2019, defendant served an Answer, along with a CPLR 3017(c) demand. Answer and CPLR 3017(c) demand (**Exhibit "B"**).

GROUND FOR REMOVAL

5. The grounds for removal are based on the original jurisdiction of this Court under 28 U.S.C. §1332, which allows this Court to hear matters based on diversity of citizenship of the parties.

6. Regal Cinemas, Inc. is a Tennessee corporation with a principal place of business in Tennessee.

7. The plaintiff's Complaint alleges that she is a resident of Brooklyn, New York and that the accident occurred in New York. Complaint (**Exhibit A**).

8. The defendant believes in good-faith that the amount in controversy exceeds \$75,000, exclusive of interest and costs, based on plaintiff's Verified Bill of Particulars seeking over \$200,000 in damages (**Exhibit "C"**).

CONCLUSION

9. Removal of this action to the United States District Court is proper under 28 U.S.C. §1441(a) because the amount in controversy exceeds \$75,000, exclusive of interests and costs, and because there is complete diversity of citizenship between the parties. The United States District Court would, therefore, have original jurisdiction over this matter under 28 U.S.C. §1332 had the action been brought in federal court originally.

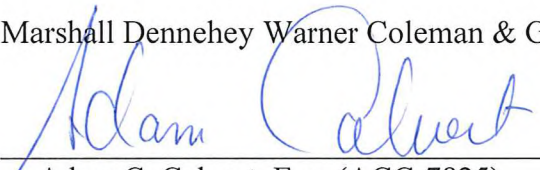
10. Written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d), as evidenced in the annexed Certificate of Service.

11. Promptly after filing this Notice with the Court and the assignment of a civil docket number, a copy of this Notice will be filed with the Supreme Court of the State of New York, County of Kings in accordance with 28 U.S.C. §1446(d).

12. By filing this Notice of Removal, defendant does not waive any defenses, including, without limitation, lack of personal jurisdiction, improper venue or forum, failure to establish damages, all defenses specified in Federal Rules of Civil Procedure 12, or any other defenses.

WHEREFORE, the defendant gives notice that the above-referenced action, pending against them in the Supreme Court of the State of New York, County of Kings, has been removed to this Court.

Dated: New York, New York
October 11, 2019

Marshall Dennehey Warner Coleman & Goggin
By: 
Adam C. Calvert, Esq. (ACC-7825)
Attorneys for Defendant – Regal Cinemas, Inc.
Wall Street Plaza · 88 Pine Street – 21st Floor
New York, New York 10005
Tel: (212) 376-6400
Fax: (212) 376-6490
File No.: 12180.04898
E-mail: accalvert@mdwgcg.com

To: Burns & Harris, Esqs.
Attorneys for Plaintiff – Kisha Coston
233 Broadway – Suite 900
New York, New York 10279
Tel: (212) 393-1000

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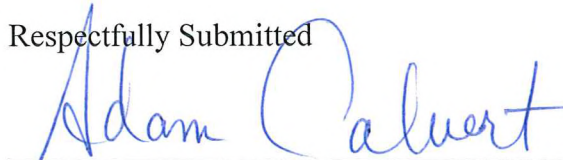
CERTIFICATE OF SERVICE

This will certify that I have this day caused to be served a copy of the within and foregoing Notice of Subpoena upon the following parties by placing the same in the United States mail, postage prepaid, addressed to:

Burns & Harris, Esqs.
Attorneys for Plaintiff – Kisha Coston
233 Broadway – Suite 900
New York, New York 10279
Tel: (212) 393-1000

Dated: New York, New York
October 11, 2019

Respectfully Submitted



Adam C. Calvert, Esq. (ACC-7825)

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MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

Attorneys for Defendants

REGAL CINEMAS, INC.

Wall Street Plaza, 88 Pine Street, 21st Floor
New York, New York 10005
Tel: (212) 376-6400